IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 97 of 1990

in

SPECIAL CIVIL APPLICATIONNo 48 of 1989

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE SHARAD D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

K S PAREKH SINCE DECEASED HIS L/R AS 1/1 TO 1/5

Versus

STATE OF GUJARAT

Appearance:

1. LETTERS PATENT APPEAL No. 97 of 1990

MR MR ANAND for Appellant No.

MR DIPAK C RAVAL for Appellant No.

GOVERNMENT PLEADER for Respondent No. 1-2

NOTICE SERVED for Respondent No. 1

MR SK PATEL for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE SHARAD D.DAVE

Date of decision: 19/01/2005

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

#. Shri K.S.Parekh and Shri A.D.Solanki working as Dy.Mamlatdar had filed joint Special Civil Application No. 48 of 1989 praying that they may be treated as continued in service as Dy.Mamlatdar and they may be granted all consequential benefits on that basis by quashing and setting the impugned order dated 23.06.1983 passed by the G.P.S.C. declaring them as failed in the examination held in June, 1977. Initially, while issuing notice to the other side, ad-interim relief was granted in their favour, but later on the said petition was dismissed on 15.12.1989 by the learned single Judge and ad-interim relief granted earlier was vacated by discharging the notice. It seems that out of those two petitioners, original petitioner no. 1 Shri K.S.Parekh had filed present appeal with civil application for stay wherein the Division Bench of this Court granted interim relief in favour of the appellant and thereby he continued to remain in service as Dy.Mamlatdar. However, during the pendency of this appeal, original appellant petitioner Shri K.S.Parekh died on 30.03.2002. Thereupon, civil application no. 7441 of 2004 was filed by his legal heirs - present appellants to bring them on record of this appeal and to prosecute them. It was granted by this Court on 17.09.2004. Accordingly, they have come on record of this appeal as appellants in place of original appellant - deceased Shri K.S.Parekh.

#. Last time i.e. on 13.01.2005 when this appeal was placed for hearing, learned counsel Shri Deepak Raval for the present appellants made a statement at the bar that under the interim orders of the court, the appellant had continued as Dy.Mamlatdar and also retired from service and also got all the benefits of service as if the impugned order dated 23.06.1983 was never passed by the G.P.S.C. declaring him as failed in the examination held in Jun, 1977. However, learned A.G.P.Shri Dave had no such definite instruction, therefore, on his request the matter was kept today i.e.19.01.2005.

#. Today, learned A.G.P. Shri Dave, on instruction, stated at the bar that under the interim orders passed by

this court on civil application filed in this appeal, the original appellant Shri K.S.Parekh had continued as Dy.Mamlatdar and later on by an order dated 29.08.1991, he was asked to compulsorily retire from service and also given all retiral benefits of service and later on died in 2002.

#. In view of the above, by afflux of time and the subsequent events taken up in the matter, no further orders are required to be passed in this appeal in view of the interim orders passed by this court on civil application filed in this appeal. Accordingly, this appeal is disposed of with no order as to costs.

(B.J.SHETHNA, J)

(SHARAD D DAVE, J)
srilatha